



AZ POST

INTEGRITY BULLETIN

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The Arizona Peace Officer Standards and Training Board (AZ POST) is mandated by the legislature to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. The Board meets the charge to protect the public by overseeing the integrity of Arizona's law enforcement officers by reviewing cases and taking action against the certification of individuals who violate the AZ POST Rules. The following is a summary of some of the actions taken by the Arizona Peace Officer Standards and Training Board at its **August, September, November and December 2004**, public meetings. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, this Board publishes this bulletin to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have. The "*Editor Notes*" and the "*Frequently Asked Questions*" section are historical observations and insights for training and discussion purposes only.

CASE NO. 1

DISHONESTY

Officer A sat and finished his meal after advising he was en route to a graffiti call. When questioned about why he was tardy in his response, he told a sergeant that he had been on his way home to use the restroom when the call came and so he went home first. A few hours later, Officer A returned to the station to set the record straight and confess that he had been at the restaurant and to talk about some personal problems with which he had been concerned. He was served with a Notice of Investigation. Initially he told the sergeant he was outside the restaurant rather than inside the restaurant when the call came. After the sergeant questioned his integrity, Officer A admitted he was inside the restaurant and didn't leave until the second call, about 20 minutes later. Officer A appeared before the Board with a Consent Agreement that stipulated the facts and the rule violation. The Board heard testimony about several mitigating facts and considered the post-Garrity lie to be non-material. It suspended Officer A's peace officer certification for six months for malfeasance in office.

CASE NO. 2

WILLFUL FALSIFICATION TO OBTAIN CERTIFICATION

Recruit B was appointed by an agency and was attending an academy. POST conducted a new hire audit of his background file and noted an extensive history of felonies and criminal conduct from age 15 to age 24. The audit also noted that he did not disclose this history on his POST Personal History form. The Board denied him peace officer certification after the hearing before an Administrative Law Judge at the Office of Administrative Hearings, verified the allegations.

CASE NO. 3

MALFEASANCE

Officer C was on a death investigation with another officer. He made statements to the other officer that if he wanted some of the deceased person's property to go ahead and take it. On a different call, he made inappropriate sexual comments to a 15 year old girl, suggesting sexual activity with him and then denied

making the statements in an internal investigation. Three other allegations, involving theft and lying, were unfounded at the Administrative Law Judge's hearing. The Board adopted the Findings of Fact and Conclusions of Law and revoked Officer C's peace officer certification.

CASE NO. 4

ASSAULT AND KIDNAPPING

Officer D was convicted of two counts of attempted false imprisonment and two counts of negligent use of a firearm, both misdemeanors. The convictions stemmed from an all night rampage of assault and kidnapping of his wife and daughter. The Board revoked the peace officer certification of Officer D for the commission of felonies and offenses involving physical violence.

CASE NO. 5

DISHONESTY

Officer E had a deal at his apartment complex to conduct security checks in exchange for reduced rent. He regularly left his assigned patrol area to conduct these checks. He lied during an internal affairs investigation about doing the checks on paid department time. The Board revoked his peace officer certification for committing an offense involving dishonesty and malfeasance in office.

CASE NO. 6

ASSAULT AND DISHONESTY

Deputy F assaulted an inmate in his custody who was handcuffed and shackled. He then lied about it to criminal investigators and a department polygraph examiner. The Board revoked his certification for committing offenses involving dishonesty and physical violence and malfeasance in office.

CASE NO. 7

MISFEASANCE AND NONFEASANCE

Deputy G made a series of decisions that led supervisors to question her ability to function as a peace officer. Among those decisions were two instances of failing to respond to calls. One was an emergency medical call and the other was for an armed suspect reported to be entering homes and threatening the residents at gunpoint to obtain money and valuables. On the former, Deputy G stopped at a friend's house and went inside to visit before proceeding to the call. On the latter, she observed some children at a pay phone and stopped to identify the children as curfew violators before proceeding to the call. In this incident another deputy had to handle the call and make arrests without sufficient back-up. The department attempted to retrain Deputy G by having her complete a second FTO Program, but the remedial attempts did not appear to help. Deputy G did not respond to the Board's complaint and the Board revoked her peace officer certification for misfeasance, malfeasance and nonfeasance in office.

CASE NO. 8

DISHONESTY AND MALFEASANCE

Officer H reported to dispatch that he had completed building security checks when he was really in a restaurant wooing his future wife. He initially denied wrongdoing to the chief, but later admitted it. There were no Garrity warnings given. Officer H appeared before the Board and offered in mitigation that he was trying to protect his future wife because she also worked for the municipality, although not as a peace officer. The Board suspended his peace officer certification for two years beginning on the date of his termination from the agency for misfeasance, malfeasance and nonfeasance in office.

CASE NO. 9

ASSAULT AND DISHONESTY

Officer I assaulted her daughter by throwing a book, hitting her in the face and arm. She also lied during an internal investigation about whether she had consumed alcohol prior to a different family fight in which she was not physically involved. The allegations were heard before an Administrative Law Judge of the Office

of Administrative Hearings. The judge found that she violated POST rules against committing offenses involving physical violence, malfeasance in office and conduct that tends to diminish public trust in the law enforcement profession. The Board adopted the Findings of Fact and Conclusions of Law from the Administrative Law Judge's hearing and revoked Officer I's peace officer certification.

CASE NO. 10

PORNOGRAPHY AND DISHONESTY

Officer J viewed pornographic websites at work and then denied it during an official investigation after having received the Garrity warnings. The Board revoked his peace officer certification for malfeasance in office.

CASE NO. 11

DISHONESTY

Officer K responded to a disturbance call in the early morning hours at an apartment complex. There he had conversations with two women about getting together and going out. That night he contacted his supervisor and asked if he could come in three hours late because he had his kids and his ex-wife was not going to be able to pick them up until later. Officer K spent about two hours at the apartment complex with the women before going to work. He made several inconsistent statements during an IA interview. The officer did not request a hearing or otherwise challenge the allegation that he was untruthful during the investigation. The Board revoked his peace officer certification for malfeasance in office.

CASE NO. 12

MISFEASANCE

Sergeant L located a vehicle that had been the subject of an attempt to locate. The vehicle was driven by a 19 year old female who was accompanied by a juvenile male. In a separate vehicle was the female's brother who had been sent by their father to look for her. Sergeant L administered field sobriety tests and determined the female was not impaired. He issued her a citation for driving without a license. He arranged for her to drive home, followed by her brother, while he took the juvenile with him in the patrol car and he so informed dispatch. The father listening on a scanner, called dispatch and asked that the sergeant follow his daughter home instead of her brother, because he knew she was mad. Sergeant L proceeded to follow the unlicensed driver. The female took off at a high rate of speed and Sergeant L engaged in a pursuit that ended when the female ran a red light and T-boned another vehicle. She had a blood alcohol level of .08 or more. Sergeant L's employment was terminated and the Board suspended his peace officer certification for a period of one year for misfeasance in office.

CASE NO. 13

EXCESSIVE USE OF FORCE AND MALFEASANCE

Park Ranger M responded to a park to investigate loud noise. When he first made contact with a large group of juveniles he said, "What the f--k are you guys doing?" He asked for identification. One of the juveniles provided a high school ID card. Park Ranger M said, "What the f--k is this?" and threw the card to the ground. He ordered the boys to sit on their "asses." Victim one did not move fast enough, so Park Ranger M pushed him to the ground and slapped him across the face. The ranger called another boy over to him, grabbed him by the shirt, kned him in the groin and pushed him onto the hood of the vehicle. No use of force report was filed. The Board revoked his peace officer certification for the commission of offenses involving physical violence and malfeasance in office.

CASE NO. 14

DISHONESTY

Cadet N was in the academy when AZ POST conducted an audit of his background file. The POST Personal History Statement listed two uses of marijuana, but the polygraph report noted between 10 and 15 uses of marijuana. An investigation ensued. Cadet N stated he filled out the form when his mother was sitting next

to him and he did not want her to know the true extent of his experimentation with marijuana. He readily admitted that the statement was untrue and apologized for the falsehood in an email to his entire academy class. He appeared before the POST Board and answered questions and presented letters of support from the Chief of Police and Academy Advisor. The Board noted the following mitigating facts: the lie was non-material in that the truth did not disqualify him from certification; the lie was made before entering the academy and expectations in respect to honesty are taught in the academy and he exhibited immediate forthcoming behavior when asked about the discrepancy. The Board voted to delay eligibility for peace officer certification for one year.

On August 18, September 15, November 10, and December 15, 2004, the Board voted to close out the following cases without initiating a Complaint for disciplinary action. There was no October meeting. In some of these cases, the Board directed staff to assure that any hiring agency would comply with the misconduct reporting statute by inquiring of the past agency whether violations of POST rules existed.

- A cadet was believed by his agency to be untruthful when he denied unsnapping his holster in a threatening manner.
- An officer fatally shot a suspect he believed was trying to run him over.
- An officer was DUI in his personal vehicle off duty and was involved in a minor accident.
- An officer answered a supervisor's questions in a manner that his agency found misleading and untruthful about whether he had filed a report and with whom he had spoken to write the report.
- An officer conducted registration checks on his own vehicles using ACJIS, in violation of department policy, but not illegally.
- A sergeant failed to properly report to his supervisor a possible domestic violence incident involving a department lieutenant.
- An officer, while off duty, tried to develop a sexual encounter with an individual who was known to have a felony criminal record and to use illegal drugs.
- An officer failed to complete and submit a report on time as instructed by his supervisor.
- An officer exceeded the parameters of a consent search after being reminded of the parameters by his sergeant.
- A deputy was pushy and antagonistic in obtaining certification by the waiver process in order to transfer Arizona certification to another state.
- An officer was defensive and evasive during an IA interview.

The Board adopted consent agreements calling for voluntary relinquishments or denials of certification where the following allegations had been made, but not proven.

- An officer sat in his personal vehicle and masturbated while watching women enter and leave a store.
- An officer spit on and then struck a handcuffed prisoner in the face with his fist after the prisoner spit first.
- An officer accepted military leave pay under false pretenses.
- An officer provided alcohol to minors and then lied about it during an internal affairs interview.
- An officer admitted during a background interview for employment with a lateral agency, that he had falsified a traffic citation, lied while testifying and used police department computers to view pornography while on duty.